

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

Case No. 8:03-cr-77-T-30TBM

SAMI AMIN AL-ARIAN,
and SAMEEH HAMMOUDEH

RESPONSE TO MOTION TO COMPEL GOVERNMENT TO
FACILITATE LEGAL DEFENSE FUNCTIONS TO INSURE EFFECTIVE
SELF-REPRESENTATION AS A PRETRIAL DETAINEE

COMES NOW the United States, by and through the undersigned Assistant United States Attorney, in response to the Motion to Compel Government to Facilitate Legal Defense Function filed by Defendant Sami Amin Al-Arian.

INTRODUCTION

In his motion, the Defendant makes the following demands: access to the main institution law library, extended visiting hours, unlimited access to audio, video tapes, and compact disks, unmonitored discussions with persons either assisting with his defense or acting as his witnesses, unmonitored telephone privileges from 8:00 a.m. until 10:00 p.m., and contact visits with perspective witnesses. The Defendant maintains these demands are necessary because of his pro se status.¹ None of Defendant's allegations are meritorious and the United States requests the Court to

¹ The Defendant has notified prison staff that he intends to hire attorney William Moffitt to represent him. If this happens, many of the issues raised by the Defendant will be moot.

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deny his motion.² He has not attempted to informally resolve many of these issues with staff at USP Coleman and not exhausted the administrative remedies made available to him by the Federal Bureau of Prisons. (See Declaration of Caixa Santos). The Defendant's allegations and the applicable prison policy of legal standards are found below.

A. Opening Incoming Legal Mail

Defendant fails to identify a specific instance when his special mail was improperly opened outside his presence and has not filed an administrative grievance on this issue. In accordance with 28 C.F.R. § 540.11, special mail is delivered to the institution mailroom for sorting and dispatch to the postal service within twenty-four (24) hours. The Bureau's policies governing the processing of Special Mail are found in three (3) program statements: Program Statement 5870.10, Mail Management Manual (08/19/1998); Program Statement 5265.11, Correspondence (07/03/2003); Program Statement 1315.07 Legal Activities, Inmate (11/05/1999).³ In accordance with 28 C.F.R. § 540.18 (d), mailroom staff stamp the following statement directly on the back side of inmate outgoing special/legal mail:

The enclosed letter was processed through special mailing procedures for forwarding to you. The letter has neither been opened nor inspected. If the

² While Defendant has filed his motion pursuant to his criminal case, arguably he is contesting his conditions of confinement and should be required to exhaust his administrative remedies under the Prison Litigation Reform Act. See Porter v. Nussle, 534 U.S. 516 (2002)(broadly construing prison conditions).

³ These program statements or agency policies are readily retrievable from the Bureau's website found at www.bop.gov. Inmates can obtain copies of most program statements in the institution library. Relevant portions of these program statements are attached to the Declaration of Ms. Santos.

writer raises a question or problem over which this facility has jurisdiction, you may wish to return the material for further information or clarification. If the writer encloses correspondence for forwarding to another addressee, please return the enclosure to the above address.

Program Statement 5870.10, Mail Management Manual (08/19/1998), ¶ 15 at 18.

In addition, the name and address of the institution, the date, and the initials of mailroom staff are placed on the envelope. Staff do not open or search outgoing special mail which is properly marked and meets the special mail guidelines set out in Bureau policy. The Fifth Circuit has upheld the opening and inspection of incoming legal mail for contraband in the presence of the inmate. Taylor v. Sterrett, 532 F.2d 462, 475 (5th Cir. 1976);⁴ see also Thornburgh v. Abbott, 490 U.S. 401 (1988).

Bureau of Prisons' program statements give staff the authority to open all general correspondence addressed to an inmate before it is delivered. Special mail (mail from the President and Vice President of the United States, attorneys, Members of the United States Congress, Embassies and Consulates, the United States Department of Justice (excluding the Bureau of Prisons but including United States Attorneys), other Federal law enforcement officers, State Attorneys General, Prosecuting Attorneys, Governors, United States Courts (including U.S. Probation Officers, and State Courts)) may be opened only in the presence of the inmate to be checked for contraband. This procedure occurs **only** if the sender is adequately identified on the envelope and the front of the envelope is marked "Special Mail - Open only in the presence of the inmate." The use of the title "Esquire" without additional indication of the sender's occupation

⁴ Decisions of the Fifth Circuit rendered prior to the close of business on September 30, 1981, are binding precedence in the Eleventh Circuit per Bonner v. City of Prichard, 661 F.2d 1206, 1207 (11th Cir. 1981).

does not establish the bearer as an attorney or legal aid supervisor. However, use of the title "Esquire" after the sender's name, in addition to the same name being included in the return address of the law office, does sufficiently identify the sender as an attorney. Alternatively, the use of the term "Esquire" after the sender's name, in addition to some notation on the envelope that the sender is an attorney, i.e., Attorney-Client Communication, is also sufficient identification.

The Defendant provides no evidence that staff at USP Coleman have not followed proper procedures processing his mail. He fails to state a claim and the Court should deny him relief.

B. Access to the Institution's Main Law Library

There is a division among the circuit courts as to whether an incarcerated defendant, who refuses appointed counsel for self-representation, retains a constitutional right to access law libraries and other legal resources. Compare U.S. v. Byrd, 208 F.3d 592, 593 (7th Cir. 2000) (right to access not violated when inmate chooses to forego assistance of counsel) and U.S. v. Chatman, 584 F.2d 1358 (4th Cir. 1978)(no right to access law library when accused waives right to counsel) with Bribiesca v. Galaza, 215 F.3d 1015, 1020 (9th Cir. 2000) (pro se defendant has right to access to law books or other tools to prepare defense)

Ordinarily, the Bureau of Prisons is required to provide inmates with adequate access to the courts through law libraries or legal assistance programs. Bounds v. Smith, 430 U.S. 817 (1977) (addressing access to pursue post-conviction relief). In Lewis v. Casey, the Court clarified that access to a law library or legal assistance are means to enabling inmates to exercise their right to access the courts, not an end in and

of itself. Lewis v. Casey, 518 U.S. 343, 350 (1996) (no freestanding right to a law library). In Lewis, the Court acknowledged “Bounds does not guarantee inmates the wherewithal to transform themselves into litigating engines. . . the tools it requires to be provided are those that the inmates need in order to attack their sentences, directly or collaterally. . . .” Id at 355.

Even though the Defendant has waived appointed counsel, he is being provided access to the basic law library in the Special Housing Unit at USP Coleman. The basic law library is maintained consistent with Program Statement 1315.07, Legal Activities, Inmate (11/5/99) and Program Statement 7331-04, Pretrial Inmates (1/31/2003). A list of the items required to be maintained in a basic law library is found in the Legal Activities, Inmate Program Statement. If the Defendant needs access to materials not available in the basic law library, he can complete an Inmate Request to Staff Member and obtain the materials from the institution’s main law library. “Upon request” procedures have been found to provide inmates with meaningful access to the law library. See Martucci v. Johnson, 944 F.2d 291, 295 (6th Cir. 1991). The Defendant can review materials for seventy-two (72) hours or pay \$.10 per page to retain a photocopy. Inmates are usually limited to five (5) copies a week but accommodations are made when appropriate and necessary.

C. Access to a Typewriter

Inmates at USP Coleman are not authorized personal computers due to safety and security concerns. USP Coleman has typewriters available for inmates to use, but a typewriter is not maintained in the Special Housing Unit due to security concerns. If the Defendant shows a compelling need for a typewriter, access to one can be provided.

Otherwise the Defendant can handwrite any motions he desires to file. Inmates have no constitutional right to typewriters, Durham v. Blackwell, 409 F.2d 838 (5th Cir. 1969); Williams v. U.S. Dept. of Justice, Bureau of Prisons, 433 F.2d 958 (5th Cir. 1970), and Defendant's claim on this issue is meritless.

D. Access to the Internet

Along with personal computers, inmates at USP Coleman do not have access to the internet. Obviously, the internet provides inmates with an opportunity to not only compromise the safety and security of the institution, but to commit further crimes and fraud on the public. Bureau Program Statement 1237.11, Information Security Programs dated 10/24/97, provides clear national guidance prohibiting inmates from having internet access:

"2. Inmates shall never be allowed to use computers attached to communications hardware (network cards or other means that would provide access to administrative LANs, SENTRY, BOPNet, Internet, Intranet, or modems)."

These restrictions are rationally related to the Bureau's legitimate penological objectives of maintaining security and protecting the public. The Defendant's request cannot be complied with in the secure environment found at USP Coleman and does not rise to the level of a constitutional violation.

E. Access to Writing Materials

Inmates in the Special Housing Unit are supplied with pencils and lined writing pads. Officers in the Special Housing Unit sharpen inmates pencils for the inmates, rather than provide them with pencil sharpeners containing razors. Safety pens have been ordered for the Defendant's use, but adhesive tape, paper clips, and a stapler

cannot be provided due to security concerns. The prison commissary sells large manilla envelopes which the Defendant can purchase to organize his legal materials.

F. Books From Publishers

The Defendant is only authorized to receive soft cover books from the publisher, not hard cover books. If the information Defendant needs can only be found in a hardcover version of the book, he can request staff to remove the cover. Holt v. Pitts, 702 F.2d 639 (6th Cir. 1983) (prison authorities conditioned access to materials on the removal of hardback covers was neither unreasonable nor unconstitutional). Inmates in the Special Housing Unit are allowed to retain five (5) books in their cell at a time. The Defendant currently has more than the authorized number and USP Coleman staff have been willing to allow the Defendant to possess this number provided they do not cause a security or fire hazard. See 28 C.F.R. § 543.11.

G. Legal Visits For Pretrial Inmates

Pretrial inmates are authorized to have legal visits seven (7) days a week. These visits are authorized between 8:00 a.m. and 3:00 p.m. See 28 C.F.R 543.13. Legal visits with non-attorneys are authorized only where a paralegal, law clerk or legal assistant has an established supervisory relationship with an attorney on an approved visiting/correspondence list. 28 C.F.R. § 543.16. The inmate's Unit Team will work with the prospective paralegal, law clerk or legal assistant and the attorney to obtain the necessary paperwork to complete the required background investigation and submit the

request to the Warden for approval. In the absence of supervision by an attorney who is also an officer of the court, a person only receives social visiting or general correspondence privileges.

H. Photocopies

The Defendant wants his own personal photocopier. The Eleventh Circuit has stated "jail officials do not necessarily have to provide a prisoner with free, unlimited access to photocopies of legal precedents in order to protect the prisoner's right to access to the courts." Wanninger v. Davenport, 697 F.2d 992, 994 (11th Cir. 1983). Inmates in the SHU may receive photocopies by making a written request to their Unit Team. Inmates are charged \$.10 a page for photocopies.

I. Possession of Documents

In Brown v. Dugger, a prison regulation requiring inmates to maintain their legal materials in a designated room rather than with their personal property was found to be constitutionally valid. Brown v. Dugger, 456 F.2d 1260, 1261 (5th Cir. 1972); see also Sowell v. Vose, 941 F.2d 32, 35 (1st Cir. 1991) (no violation when prisoner not allowed to access his legal material kept in storage because no showing of "actual injury"). The Defendant currently retains documents in his cell, but if the volume of these documents become a safety hazard, alternative storage arrangements will be made. Defendant is authorized to have a cassette player and a reasonable number of audio cassettes in his cell at any given time. He may exchange the audio cassettes when he is finished working with them.

J. Searches for Contraband

The Bureau of Prisons defines an inmate's legal materials as including but not limited to the inmate's pleadings and documents (such as a pre-sentence report) that have been filed in court or with another judicial or administrative body, drafts of pleadings to be submitted by the inmate to a court or with other judicial or administrative body which contain the inmate's name and/or case caption prominently displayed on the first page, documents pertaining to an inmate's administrative case, photocopies of legal reference materials and materials which are not available in the institution main law library (or basic law library in a satellite camp). If a search of a cell is conducted, all documents in that cell must be shuffled through in order to detect contraband. This measure is necessary because inmates hide contraband in their legal materials under the mistaken belief staff will not search them. If inmates were allowed to control which items in their cells were subject to search, these places would become safe-havens for contraband and the safety and security of the institution would be compromised.

The same can be said for the timing of the search. Inmates in the Special Housing Unit are subject to irregular or random "shakedowns" of their cells. Unannounced searches of pretrial inmate's living quarters have withstood constitutional scrutiny. See Block v. Rutherford, 468 U.S. 576, 490 (1984).

K. Surveillance Of Inmates

The Defendant is housed in a maximum security penitentiary where inmates are subject to constant monitoring and surveillance by staff. See Hudson v. Palmer, 468 U.S. 517, 529-30 (1984) (Prisoners have no expectation of privacy in cells). Monitoring takes

the form of staff supervision, video surveillance, and audio surveillance. While not subject to audio surveillance, legal visits may be subject to visual surveillance. Video surveillance and direct staff supervision are utilized throughout the correctional institution as a means to protect both staff and inmates. See 18 U.S.C. § 4042 (Duty to protect); Farmer v. Brennan, 511 U.S. 825, 838-42 (1994) (prison official's failure to protect prisoner from fellow inmates may constitute cruel and unusual punishment).

The Defendant's request that his conversations "in any way, shape, or form related to his defense" cannot be granted without undermining the security of the institution. This is simply no way prison officials can verify whether the Defendant is discussing his defense strategy or communicating about some improper or illegal purpose during a confidential conversation with outsiders.

L. Investigators and Experts

If the Court authorizes the retention of translators, private investigators, or other experts, and provides the Bureau with the names of those individuals, arrangements will be made for the Defendant to meet with these individuals.

M. Social Visitors

Visits with non-attorneys the Defendant deems are necessary for the preparation of his defense may be arranged consistent with the social visiting policies. Caraballo-Sandoval v. Honsted, 35 F.3d 521, 525 (11th Cir. 1994) (inmate visitation is a privilege which may be restricted to meet legitimate penological objectives). The institution must be able to confirm the visitor is a potential witness through the United States Attorney's Office or the Court since the inmate is unrepresented by counsel. The Defendant is

authorized non-contact social visits and has no constitutional right to contact visits. See Block v. Rutherford, 468 U.S. 576, 589 (1984). No requests have been made for special visits with any potential witnesses by the Defendant.

N. Loss of Social Phone Privileges

“Telephone privileges are afforded to inmates who demonstrate an ability to exercise these privileges responsibly.” 28 C.F.R. § 540.104; P.S. 5264.07, Telephone Regulations for Inmates at ¶ 13 (01/31/2002). See 28 C.F.R. § 540.100; P.S. 5264.07 at ¶ 1. Pope v. Hightower, 101 F.3d 1382 (11th Cir. 1996) (approving restrictions of inmate calls for legitimate penological objective). The Defendant’s request for an unlimited and unmonitored phone would undermine an administrative sanction imposed upon the Defendant for violating prison rules. On June 18, 2003, the USP Coleman Discipline Hearing Officer determined there was sufficient evidence to find that the Defendant committed the prohibited act of Phone Abuse, Non-Criminal, in violation of disciplinary code 297. The Defendant was sanctioned with 180 days loss of social phone privileges. His social phone privileges will be restored on December 14, 2003.

In addition to the specific restrictions placed on the Defendant because of his misconduct, there are restrictions that apply to all inmates in the Special Housing Unit. Inmates in the Special Housing Unit receive one social call a month and no call may exceed fifteen (15) minutes. All social phone calls are monitored.

CONCLUSION

The Defendant fails to state a claim for relief as the policies and procedures at USP Coleman are constitutionally valid. Prison officials at USP Coleman are uniquely

positioned to evaluate Defendant's concerns in light of the security and safety needs of the institution and the Defendant should be compelled to seek their assistance before petitioning the Court for relief. Much if not all of Defendant's difficulties can be attributed to his decision to forgo court-appointed legal counsel and have not been caused by the sound correctional practices utilized at USP Coleman. As a result, the United States requests the Defendant's motion be denied in its entirety.

Respectfully submitted,

PAUL I. PEREZ
United States Attorney

By:



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing **RESPONSE TO MOTION TO COMPEL GOVERNMENT TO FACILITATE LEGAL DEFENSE FUNCTIONS TO INSURE EFFECTIVE SELF-REPRESENTATION AS A PRETRIAL DETAINEE** has been mailed this **12** day of August, 2003, to the following:

SAMI AMIN AL-ARIAN
Reg. No. 40939-018
United States Penitentiary
846 NE 54th Terrance
Coleman, Florida 33521

United States of America v.
Sami-Amin Al-Arian
Case No. 8:03-cr-77-T-30TBM

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Assistant United States Attorney

1 UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF FLORIDA
3 TAMPA DIVISION

4 UNITED STATES OF AMERICA

5
6 V.

7 SAMI AL-ARIAN, ET AL

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CASE NO.: 8:03-CR-77-T-30-TBM

DECLARATION AND CERTIFICATION OF BUSINESS RECORD
BY CAIXA M. SANTOS

In accordance with the provisions of Section 1746 of Title 28, United States Code, I, the undersigned, Caixa M. Santos, do hereby make the following unsworn declaration, under penalty of perjury, pertinent to the above-styled cause:

1. I am currently employed by the United States Government, Federal Bureau of Prisons (Bureau), as Legal Instruments Examiner at the Federal Correctional Complex in Coleman, Florida.
2. As part of my duties, I have access to official records, including Bureau policies and records maintained electronically in the SENTRY data base by the Federal Bureau of Prisons (Bureau). These records were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters.
3. The Bureau of Prisons makes available to its inmates a three level administrative remedy process should informal resolution procedures fail to achieve sufficient results. The administrative remedy process is begun by filing a Request for Administrative Remedy at the institution where the inmate is incarcerated. See 28 C.F.R. § 542.14. Should the inmate's

complaint be denied at the institution level, the inmate may appeal by filing a Regional Administrative Remedy Appeal with the Regional Office for the geographic region in which the inmate's institution of confinement is located. This is the second step of the process. See 28 C.F.R. § 542.15(a). For an inmate at FCC Coleman, this appeal would be filed with the Southeast Regional Office of the BOP in Atlanta, Georgia. If the Regional Office denies relief, the inmate can appeal to the Office of General Counsel via a Central Office Administrative Remedy Appeal. This is the third and final step of the process. See 28 C.F.R. § 542.15(a).

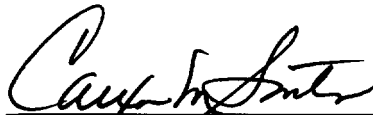
4. The defendant in the above referenced case, Sami Al-Arian, federal register number 40939-018, is a federal prisoner who has been incarcerated at FCC Coleman from March 27, 2003, to the present.
5. Computerized administrative remedy records maintained by the Bureau of Prisons reveal Al-Arian has filed administrative remedies regarding access to the telephone and appealing a disciplinary action, but has not exhausted his administrative remedies as to either issue.
6. Al-Arian had not filed any administrative remedies regarding any other matter until August 7, 2003, when he filed four Requests for Administrative Remedy. Remedy No. 307012-F1 was rejected because it was untimely. Inmates have 20 days from the date of the incident complained about to file a remedy. The incident complained about in Remedy No. 307012-F1 occurred on May 26, 2003, more than two months prior to submission of the remedy. He also submitted a remedy seeking monetary damages for not receiving a timely telephone call. This remedy, Remedy No. 307017-F1, was rejected and the inmate was advised that monetary damages may be sought through filing an administrative tort claim and was advised to contact his counselor for more information on filing a tort claim. A remedy submission complaining

1 of insufficient recreation time was also rejected as the dates the inmate
2 specified were from April, May, and June, and were therefore brought
3 untimely. Finally, the inmate's submission regarding his placement in the
4 Special Housing Unit and restrictions was accepted and routed for
5 investigation. A response is due to the inmate on August 27, 2003. Al-
6 Arian has not exhausted his administrative remedies at all three levels as
7 to any issue.

- 8 7. I certify that the attached Public Information Inmate Data as of 08-07-
9 2003, Administrative Remedy Generalized Retrieval Unsanitized and Full
10 Screen Format, Inmate Discipline Data are true and accurate SENTRY
11 printout referencing inmate Sami Al-Arian, federal register number 40939-
12 018, maintained by the Bureau in its normal course of business.
- 13 8. I further certify the attached excerpts of Program Statement 1315.07,
14 Legal Activities, Inmate (11/5/99), including Attachments A & C, and
15 Program Statement 5264.07, Telephone Regulations for Inmates
16 (1/31/2002), are true and accurate printouts of the original as they are
17 maintained electronically by the Federal Bureau of Prisons.

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19 I declare under penalty of perjury that the foregoing is true and correct.

20 Executed on this 7th day of August 2003.

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23 Caixa M. Santos, Legal Instruments Examiner

24 Federal Correctional Complex

25 Coleman, Florida
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PUBLIC INFORMATION INMATE DATA

██████████ *
PAGE 001 OF 001 *

PUBLIC INFORMATION
INMATE DATA
AS OF 08-07-2003

* 08-07-2003
* 10:12:46

REGNO...: 40939-018 NAME: AL-ARIAN, SAMI AMIN

RESP OF: COP / PRE-SENT ADMIT, ADULT
PHONE...: 352-689-6000 FTS: N/A

RACE/SEX...: WHITE / MALE
DOB/AGE...: ██████████-1958 / 45
PAR ELIG DT:
PAR HEAR DT:

FBI NUMBER.: ██████████
PROJ REL MT: UNKNOWN
PROJ REL DT: UNKNOWN

----- ADMIT/RELEASE HISTORY -----
FCL ASSIGNMENT DESCRIPTION START DATE/TIME STOP DATE/TIME
COP A-PRE PRE-SENT ADMIT, ADULT 07-26-2003 0913 CURRENT
COP PRE REMOVE PRE SENT DETAINEE REMOVED 07-22-2003 0949 07-26-2003 0913
COP A-PRE PRE-SENT ADMIT, ADULT 04-07-2003 1350 07-22-2003 0949
COP COURT COURT APPEARANCE W/SCHED RETRN 04-07-2003 0706 04-07-2003 1350
COP A-PRE PRE-SENT ADMIT, ADULT 03-27-2003 0909 04-07-2003 0706

██████████ INMATE HAS NO CURRENT OR PRIOR SENTENCE DATA

**ADMINISTRATIVE REMEDY GENERALIZED
RETRIEVAL**

[REDACTED] *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 08-07-2003
 PAGE 002 OF 002 * UNSANITIZED FORMAT * 10:13:12

REMEDY-ID	REG STATUS-DATE SUBJ1/SUBJ2	NAME STATUS DATE-RCV	ORIG UNIT OR LOC/QTRS/FACL RCV-OFC RCV-FACL EVNT-FACL
297092-F1	40939-018 04-24-2003 17AM/33EM	AL-ARIAN, S REJ 04-24-2003 REQ. ACCESS TO PHONE MORE THAN ONCE EVERY 30 DAYS	I A&O COP COP COP Z01-132LAD COP
297092-F2	40939-018 05-30-2003 17AM/33EM	AL-ARIAN, S CLD 05-16-2003 REQ. ACCESS TO PHONE MORE THAN ONCE EVERY 30 DAYS	I A&O COP COP COP Z01-132LAD COP
304881-R1	40939-018 08-01-2003 20DS/	AL-ARIAN, S CLD 07-15-2003 DHO HEARING 6-18-03 CODE 297	I A&O SER COP COL Z02-216LAD COP
307012-F1	40939-018 08-07-2003 34ZS/	AL-ARIAN, S REJ 08-07-2003 COMPLAINTS RE. OFFICER IN SHU	I A&O COP COP COP Z02-202LAD COP
307017-F1	40939-018 08-07-2003 17AS/	AL-ARIAN, S REJ 08-07-2003 NOT RECEIVING TIMELY PHONE CALL; REQ. \$ COMPENSATION	I A&O COP COP COP Z02-202LAD COP
307019-F1	40939-018 08-07-2003 22CS/	AL-ARIAN, S REJ 08-07-2003 DIDN'T RECEIVE TOTAL TIME ALLOWED FOR RECREATION	I A&O COP COP COP Z02-202LAD COP
307023-F1	40939-018 08-07-2003 22CS/	AL-ARIAN, S ACC 08-07-2003 COMPLAINTS RE. RESTRICTIONS & PLACEMENT IN SHU	I A&O COP COP COP Z02-202LAD COP

[REDACTED] 7 REMEDY SUBMISSION(S) SELECTED
 TRANSACTION SUCCESSFULLY COMPLETED

██████████ *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 08-07-2003
PAGE 001 OF 10:44:11

FUNCTION: L-P SCOPE: REG EQ 40939-018 OUTPUT FORMAT: FULL
-----LIMITED TO SUBMISSIONS WHICH MATCH ALL LIMITATIONS KEYED BELOW-----
DT RCV: FROM _____ THRU _____ DT STS: FROM _____ THRU _____
DT STS: FROM _____ TO _____ DAYS BEFORE "OR" FROM _____ TO _____ DAYS AFTER DT RDU
DT TDU: FROM _____ TO _____ DAYS BEFORE "OR" FROM _____ TO _____ DAYS AFTER DT TRT
STS/REAS: _____
SUBJECTS: _____
EXTENDED: REMEDY LEVEL: _____ RECEIPT: _____ "OR" EXTENSION: _____
RCV OFC : EQ _____
TRACK: DEPT: _____
PERSON: _____
TYPE: _____
EVNT FACL: EQ _____
RCV FACL.: EQ _____
RCV UN/LC: EQ _____
RCV QTR.: EQ _____
ORIG FACL: EQ _____
ORG UN/LC: EQ _____
ORIG QTR.: EQ _____

██████████ MORE PAGES TO FOLLOW . . .

PAGE 002 OF

*ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL *
* FULL SCREEN FORMAT *

08-07-2003
10:44:11

REGNO: 40939-018 NAME: AL-ARIAN, SAMI
RSP OF...: COP UNT/LOC/DST: I A&O QTR.: Z02-202LAD RCV OFC: COP
REMEDY ID: 297092-F1 SUB1: 17AM SUB2: 33EM DATE RCV: 04-24-2003
UNT RCV...: I A&O QTR RCV.: Z01-132LAD FACL RCV: COP
UNT ORG...: I A&O QTR ORG.: Z01-132LAD FACL ORG: COP
EVT FACL.: COP ACC LEV: COP 2 RESP DUE:
ABSTRACT.: REQ. ACCESS TO PHONE MORE THAN ONCE EVERY 30 DAYS
STATUS DT: 04-24-2003 STATUS CODE: REJ STATUS REASON: QUA INF RSF
INCRPTNO.: RCT: EXT: DATE ENTD: 04-24-2003
REMARKS...: YOU DO NOT SHOW AN ATTEMPT AT INFORMAL RESOLUTION.
YOU DID NOT SUBMIT THE REQUIRED FOUR COPIES OF THE
ADMINISTRATIVE REMEDY (BP-9) FORM.

REGNO: 40939-018 NAME: AL-ARIAN, SAMI
RSP OF...: COP UNT/LOC/DST: I A&O QTR.: Z02-202LAD RCV OFC: COP
REMEDY ID: 297092-F2 SUB1: 17AM SUB2: 33EM DATE RCV: 05-16-2003
UNT RCV...: I A&O QTR RCV.: Z04-101LO FACL RCV: COP
UNT ORG...: I A&O QTR ORG.: Z01-132LAD FACL ORG: COP
EVT FACL.: COP ACC LEV: COP 2 RESP DUE: THU 06-05-2003
ABSTRACT.: REQ. ACCESS TO PHONE MORE THAN ONCE EVERY 30 DAYS
STATUS DT: 05-30-2003 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: RCT: N EXT: DATE ENTD: 05-16-2003
REMARKS...:

MORE PAGES TO FOLLOW . . .

PAGE 003 OF

*ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL *
* FULL SCREEN FORMAT *

08-07-2003
10:44:11

REGNO: 40939-018 NAME: AL-ARIAN, SAMI
RSP OF...: COP UNT/LOC/DST: I A&O QTR.: Z02-202LAD RCV OFC: SER
REMEDY ID: 304881-R1 SUB1: 20DS SUB2: DATE RCV: 07-15-2003
UNT RCV...: I A&O QTR RCV.: Z02-216LAD FACL RCV: COP
UNT ORG...: I A&O QTR ORG.: Z02-216LAD FACL ORG: COP
EVT FACL.: COL ACC LEV: SER 1 RESP DUE: THU 08-14-2003
ABSTRACT.: DHO HEARING 6-18-03 CODE 297
STATUS DT: 08-01-2003 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: 1111810 RCT: N EXT: DATE ENTD: 07-16-2003
REMARKS...:

REGNO: 40939-018 NAME: AL-ARIAN, SAMI
RSP OF...: COP UNT/LOC/DST: I A&O QTR.: Z02-202LAD RCV OFC: COP
REMEDY ID: 307012-F1 SUB1: 34ZS SUB2: DATE RCV: 08-07-2003
UNT RCV...: I A&O QTR RCV.: Z02-202LAD FACL RCV: COP
UNT ORG...: I A&O QTR ORG.: Z02-202LAD FACL ORG: COP
EVT FACL.: COP ACC LEV: RESP DUE:
ABSTRACT.: COMPLAINTS RE. OFFICER IN SHU
STATUS DT: 08-07-2003 STATUS CODE: REJ STATUS REASON: UTF
INCRPTNO.: RCT: EXT: DATE ENTD: 08-07-2003
REMARKS...: DATES OF INCIDENT IS 5/26/03. BP-9 MUST BE FILED
WITHIN 20 DAYS OF DATE THE INCIDENT OCCURRED;
THEREFORE, YOUR REQUEST IS UNTIMELY.

MORE PAGES TO FOLLOW . . .

REGNO: 40939-018 NAME: AL-ARIAN, SAMI
RSP OF...: COP UNT/LOC/DST: I A&O QTR.: Z02-202LAD RCV OFC: COP
REMEDY ID: 307017-F1 SUB1: 17AS SUB2: DATE RCV: 08-07-2003
UNT RCV...: I A&O QTR RCV.: Z02-202LAD FACL RCV: COP
UNT ORG...: I A&O QTR ORG.: Z02-202LAD FACL ORG: COP
EVT FACL.: COP ACC LEV: RESP DUE:
ABSTRACT.: NOT RECEIVING TIMELY PHONE CALL; REQ. \$ COMPENSATION
STATUS DT: 08-07-2003 STATUS CODE: REJ STATUS REASON: OTH
INCRPTNO.: RCT: EXT: DATE ENTD: 08-07-2003
REMARKS...: MONETARY COMPENSATION CANNOT BE SOUGHT THROUGH THE
BP-9 PROCESS. YOU MAY CONTACT YOUR COUNSELOR RE-
GARDING THE TORT CLAIM PROCEDURES.

REGNO: 40939-018 NAME: AL-ARIAN, SAMI
RSP OF...: COP UNT/LOC/DST: I A&O QTR.: Z02-202LAD RCV OFC: COP
REMEDY ID: 307019-F1 SUB1: 22CS SUB2: DATE RCV: 08-07-2003
UNT RCV...: I A&O QTR RCV.: Z02-202LAD FACL RCV: COP
UNT ORG...: I A&O QTR ORG.: Z02-202LAD FACL ORG: COP
EVT FACL.: COP ACC LEV: RESP DUE:
ABSTRACT.: DIDN'T RECEIVE TOTAL TIME ALLOWED FOR RECREATION
STATUS DT: 08-07-2003 STATUS CODE: REJ STATUS REASON: UTF
INCRPTNO.: RCT: EXT: DATE ENTD: 08-07-2003
REMARKS...: SPECIFIC DAYS REFERENCED ARE IN APR., MAY, AND JUNE.
THEREFORE, BP-9 IS NOT FILED WITHIN 20 DAYS OF
INCIDENT AND IS CONSIDERED UNTIMELY.

██████████ *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 08-07-2003
PAGE 005 OF 005 * FULL SCREEN FORMAT * 10:44:11

REGNO: 40939-018 NAME: AL-ARIAN, SAMI
RSP OF...: COP UNT/LOC/DST: I A&O QTR.: Z02-202LAD RCV OFC: COP
REMEDY ID: 307023-F1 SUB1: 22CS SUB2: DATE RCV: 08-07-2003
UNT RCV...: I A&O QTR RCV.: Z02-202LAD FACL RCV: COP
UNT ORG...: I A&O QTR ORG.: Z02-202LAD FACL ORG: COP
EVT FACL.: COP ACC LEV: COP 1 RESP DUE: WED 08-27-2003
ABSTRACT.: COMPLAINTS RE. RESTRICTIONS & PLACEMENT IN SHU
STATUS DT: 08-07-2003 STATUS CODE: ACC STATUS REASON:
INCRPTNO.: RCT: N EXT: DATE ENTD: 08-07-2003
REMARKS...:

██████████ 7 REMEDY SUBMISSION(S) SELECTED
TRANSACTION SUCCESSFULLY COMPLETED

INMATE DISCIPLINE DATA CHRONOLOGICAL
DISCIPLINARY RECORD

██████ * INMATE DISCIPLINE DATA * 08-07-2003
PAGE 001 OF 001 * CHRONOLOGICAL DISCIPLINARY RECORD * 10:13:37

REGISTER NO: 40939-018 NAME..: AL-ARIAN, SAMI AMIN
FUNCTION...: PRT FORMAT: CHRONO LIMIT TO ____ MOS PRIOR TO 08-07-2003

REPORT NUMBER/STATUS.: 1111810 - SANCTIONED INCIDENT DATE/TIME: 06-05-2003 1814
DHO HEARING DATE/TIME: 06-18-2003 0915
FACL/CHAIRPERSON.....: COP/LEE GREEN
APPEAL CASE NUMBER(S): 304881
REPORT REMARKS.....: AL-ARIAN WAS FOUND GUILTY FOR ABUSE OF THE TELEPHONE
 (THREE WAY CALL)
297 PHONE ABUSE, NON-CRIMINAL - FREQ: 1
LP PHONE / 180 DAYS / CS
COMP: LAW: PHONE WILL BE RESTORED ON 12-14-03

██████ TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

**PROGRAM STATEMENT 1315.07
LEGAL ACTIVITIES, INMATE
(INCLUDES ATTACHMENT A &C)**



Program Statement

OPI: OGC
NUMBER: 1315.07
DATE: 11/5/99
SUBJECT: Legal Activities,
Inmate

1. **[PURPOSE AND SCOPE §543.10.** The Bureau of Prisons affords an inmate reasonable access to legal materials and counsel, and reasonable opportunity to prepare legal documents. The Warden shall establish an inmate law library, and procedures for access to legal reference materials and to legal counsel, and for preparation of legal documents.]

2. **SUMMARY OF CHANGES.** The changes include allowing the Central Office to contact the institutions by way of BOPNet GroupWise or memorandum, rather than Operations Memorandum, to direct the ordering of law library materials.

The procedures for posting and maintaining Bureau and U.S. Parole Commission Federal Register documents at institutions are revised and streamlined. These documents will be sent via GroupWise to staff responsible for the institution law libraries instead of being issued by Operations Memoranda.

All references to the "Central Office Librarian" have been changed to "Bureau's Librarian" to reflect the Librarian's responsibility for providing services Bureau-wide.

The Standards Referenced have been updated to reflect the revised American Correctional Association standards.

Finally, the required publications in Attachments A, B, and C are updated to reflect a variety of changes including changes in name and title, volume numbers, publishers and publishing companies, etc. Specific changes to publications in Attachments A, B, and C, requirements for the main, satellite camp and basic inmate law libraries, include:

[Bracketed Bold - Rules]

Regular Type - Implementing Information

15. [OTHER PARALEGALS, CLERKS, AND LEGAL ASSISTANTS §543.16

a. The Bureau of Prisons recognizes the use of assistants by attorneys to perform legal tasks and, with proper controls and exceptions enumerated in this section and in part 540 of this chapter, accords such assistants the same status as attorneys with respect to visiting and correspondence.]

Part 540 refers to the Program Statement on Correspondence.

The special visiting/correspondence status accorded to paralegals, clerks, and legal assistants depends upon an ongoing, supervisory relationship with an attorney on an approved visiting/correspondence list. Absent any current supervisory relationship, such persons may only receive social visiting or general correspondence privileges.

A request by a paralegal, law clerk, or legal assistant for social visiting/general correspondence privileges must be evaluated and considered on the same basis as requests from non-legal persons.

The Warden must consult with the Regional Counsel if there is a question regarding the status of such persons before making a final determination, or any recommendation or decision to limit or prohibit the visiting/correspondence privileges of such persons.

[b. The attorney who employs an assistant and who wishes the assistant to visit or correspond with an inmate on legal matters shall provide the Warden with a signed statement including:

(1) Certification of the assistant's ability to perform in this role and awareness of the responsibility of this position;

(2) A pledge to supervise the assistant's activities; and

(3) Acceptance of personal and professional responsibility for all acts of the assistant which may affect the institution, its inmates, and staff. The Warden may require each assistant to fill out and sign a personal history statement and a pledge to abide by Bureau regulations and institution guidelines. If necessary to maintain security or good order in the institution, the Warden may prohibit a legal assistant from visiting or corresponding with an inmate.]

The Warden may require each paralegal, clerk, or legal assistant to complete a BP-S243.013.

REQUIRED MAIN LAW LIBRARY MATERIALS

1. REPORTERS:

- a. United States Supreme Court Reports (Lawyers' Edition 2d Series), Volume 4-26, 37-present (Lexis Law Publishing Co.) (New institutions should order Volumes 4 - present).
- b. Supreme Court Reporter, Volumes 91 - 93A (West Group) (New institutions do not order.)
- c. Decisions of the United States Supreme Court, 1964 - present (Lexis Law Publishing Co.).
- d. Federal Reporter, 2d Series, Volumes 267 - 999 (West Group).
- e. Federal Reporter, 3d Series, Volumes 1 - present (West Group).
- f. Federal Supplement, Volumes 173 - present (West Group).
- g. Maryland Reporter, volumes 91 - present (contains District of Columbia Court of Appeals cases that are also published in the Atlantic 2nd Reporter) (West Group).
- h. Military Justice Reporter, Volume 36 No. 1 - present (West Group) (new institutions should order complete set).
- i. Criminal Law Reporter (new institutions purchase first annual subscription; subsequent subscriptions ordered by Central Office) (BNA).

2. STATUTES:

- a. United States Code Annotated, complete set (West Group).
- b. United States Constitution, including Amendments (West Group).
- c. District of Columbia Code Annotated, complete set (Michie Publishing Co.).

3. RULES:

- a. Federal Civil Judicial Procedures & Rules (West Group).
- b. Federal Criminal Code & Rules (West Group).
- c. Military Rules of Evidence Manual, Saltzburg, Schinasi &

Schlueter (Michie Publishing Co.).

4. REGULATIONS:

- a. Title 8 of the Code of Federal Regulations (U.S. Government Printing Office).
- b. Title 21 of the Code of Federal Regulations, chapter II, Part 1300 to end (U.S. Government Printing Office).
- c. Title 28 of the Code of Federal Regulations (U.S. Government Printing Office).

5. PROGRAM STATEMENTS:

- a. All current Bureau of Prisons Program Statements which contain rules codified in Chapters III or V of Title 28 of the Code of Federal Regulations.
- b. Any other Program Statement or Institution Supplement that the Warden may deem to be of interest to the inmate population, except for those documents that are restricted.

6. OTHER MATERIALS:

- a. American Jurisprudence 2d edition, complete set. (West Group).
- b. Black's Law Dictionary (West Group).
- c. Complete Manual of Criminal Forms, Bailey and Rothblatt (West Group).
- d. Constitutional Rights of Prisoners, Palmer (Anderson Publishing Co.).
- e. Law of Sentencing, Corrections and Prisoners' Rights, Krantz (West Group).
- f. Criminal Practice Institute Trial Manual, two volumes (Public Defenders Service).
- g. Criminal Procedure in a Nutshell, Israel and LaFave (West Group).
- h. Court Martial Reports Index and Citator, (Loaned by Central Office Library).

- i. Federal Habeas Corpus Practice and Procedure, Liebman and Hertz (Michie Publishing Co.) (all volumes and supplements).
- j. Immigration Law and Procedure, Gordon and Gordon (one volume) (Matthew Bender Publishing Co.).
- k. Legal Research in a Nutshell, Cohen and Kent (West Group).
- l. Legal Research and Writing: Some Starting Points, Statsky (West Group).
- m. Manual de Pautaus, Zapp (Publicaciones Legales en Espanol, Inc.).
- n. Manual for Courts-Martial, 1995, United States (U.S. Government Printing Office).
- o. Manual for Prison Law Libraries, Werner (Rothman Publishing Co.).
- p. Military Criminal Justice: Practice and Procedure, Schlueter, 1982 Edition and Supplements (Michie Publishing Co.).
- q. Military Justice Digest (West Group).
- r. Modern Criminal Procedure, Israel and Kamisar (West Group).
- s. Prisoners' Assistance Directory (The National Prison Project)
- t. Shepard's, for District of Columbia (Shepard's).
- u. Shepard's United States Citations (Shepard's).
- v. Shepard's Federal Citations (Shepard's).
- w. Spanish/English Law Dictionary, Solis (West Group).
- x. United States Supreme Court Digest Annotated (complete set) (Lexis Law Publishing Co.).
- y. ABA's Family Legal Guide (Random House).

REQUIRED MATERIALS FOR BASIC LAW LIBRARIES

1. REPORTERS:

- a. Decisions of the United States Supreme Court, 1964 - present. (Lexis Law Publishing Co.).
- b. Criminal Law Reporter (new institutions purchase first annual subscription; subsequent subscriptions ordered by Central Office) (BNA).

2. STATUTES:

- a. United States Code Annotated. (West Group).
(Pamphlet volumes not included)
 - (1) Title 5, sections 1 - 5100.
 - (2) Title 18, complete.
 - (3) Title 21, complete.
 - (4) Title 26, sections 3101 to end.
 - (5) Title 28, volumes containing the Rules of the United States Supreme Court, United States Court of Appeals Rules and Federal Rules of Appellate Procedure.
 - (6) Title 28, sections 2201 to End.
 - (7) Title 42, sections 1771 - 2010.
- b. United States Constitution and Amendments, (complete).

3. RULES:

- a. Federal Civil Judicial Procedures & Rules (West Group).
- b. Federal Criminal Code & Rules (West Group).

4. REGULATIONS:

- a. Title 28 of the Code of Federal Regulations (U.S. Government Printing Office).

5. PROGRAM STATEMENTS:

- a. All current Bureau of Prisons Program Statements which contain rules codified in Chapters III or V of Title 28 of the Code of Federal Regulations.
- b. Any other Program Statement or Institution Supplement that the Warden may deem to be of interest to the inmate population, with the exception of those documents that are restricted.

6. OTHER MATERIALS:

- a. Black's Law Dictionary (West Group).
- b. Complete Manual of Criminal forms, Bailey and Fishman (West Group).
- c. Constitutional Rights of Prisoners, Palmer (Anderson Publishing Co.).
- d. Law of Sentencing, Corrections and Prisoners' Rights, Krantz (West Group).
- e. Criminal Procedure in a Nutshell, Israel and LaFave (West Group).
- f. Federal Habeas Corpus Practice and Procedure, Liebman and Hertz (Michie Publishing Co.) (all volumes and supplements).
- g. Legal Research in a Nutshell, Cohen (West Group).
- h. Legal Research and Writing: Some Starting Points, Statsky (West Group).
- i. Manual for Courts-Martial, 1995, United States (U.S. Government Printing Office).
- j. Modern Criminal Procedure, Israel and Kamisar (West Publishing Co.).
- k. Prisoners' Assistance Directory (The National Prison Project).
- l. ABA's Family Legal Guide, (Publications International Ltd.).

**PROGRAM STATEMENT 5264.07
TELEPHONE REGULATIONS
FOR INMATES**



Program Statement

OPI: CPD
NUMBER: 5264.07
DATE: 1/31/2002
SUBJECT: Telephone Regulations
for Inmates

1. [PURPOSE AND SCOPE § 540.100

a. The Bureau of Prisons extends telephone privileges to inmates as part of its overall correctional management. Telephone privileges are a supplemental means of maintaining community and family ties that will contribute to an inmate's personal development. An inmate may request to call a person of his or her choice outside the institution on a telephone provided for that purpose. However, limitations and conditions may be imposed upon an inmate's telephone privileges to ensure that these are consistent with other aspects of the Bureau's correctional management responsibilities. In addition to the procedures set forth in this subpart, inmate telephone use is subject to those limitations which the Warden determines are necessary to ensure the security or good order, including discipline, of the institution or to protect the public. Restrictions on inmate telephone use may also be imposed as a disciplinary sanction (see 28 CFR part 541).]

28 CFR part 541 refers to the Program Statement on Inmate Discipline and Special Housing Units.

Contact with the public is a valuable tool in the overall correctional process. Toward this objective, the Bureau provides inmates with several means of achieving such communication. Primary among these is written correspondence, with telephone and visiting privileges serving as two supplemental methods.

Although there is no constitutional right for inmates to have unrestricted telephone communication, particularly when there are

[Bracketed Bold - Rule]

Regular Type - Implementing Information

privileges will be assigned a PSF Serious Telephone Abuse. Refer to the Security Designation and Custody Classification Manual for the specific criteria for applying the PSF Serious Telephone Abuse.

7. PRETRIAL, HOLDOVER, INITIAL DESIGNATION AND REDESIGNATION PROCEDURES. These procedures apply only to institutions where individual phone access codes (PAC) are utilized:

a. Pretrial Inmates

- The PSF Serious Telephone Abuse applies to sentenced inmates and therefore, does not apply to Pretrial inmates. However, if institution staff receive information on a pretrial inmate that may jeopardize the security and safety of the institution or community, staff will follow the procedures outlined in Section 8.b. of this Program Statement.

b. Holdover Inmates

- Inmates with PSF Serious Telephone Abuse imposed by the sending institution will not be permitted access to the ITS-II telephone system, except as provided in Sections 10.[e.] or 14.[c.].

c. Initial Commitment

- Upon his/her initial commitment, an inmate with a PSF of Serious Telephone Abuse will not be assigned a PAC until initially classified by the Unit Team. Phone calls may be allowed as provided in Sections 10.[e.] or 14.[c.]. Inmates identified at their initial classification as needing telephone restrictions will not be permitted access to the ITS-II telephone system until after the final review by the Warden (see Section 8.b.)

d. Redesignation

- The procedures outlined in Section 7.c. above also apply to redesignation cases.

8. TELEPHONE RESTRICTIONS IMPOSED BY THE WARDEN. Inmates may be subject to telephone restrictions imposed by the Warden to protect the safety, security, and good order of institutions, as well as to protect the public. Telephone restrictions imposed under the authority of this section are separate and apart from

telephone restrictions the UDC or DHO impose following formal, and completed, inmate discipline proceedings.

a. **Authorized Circumstances.** Inmates may be subject to telephone restrictions under this section in the following two circumstances:

(1) **PSF for Serious Telephone Abuse.** If an inmate is assigned the PSF for Serious Telephone Abuse (see the Security Designation and Custody Classification Manual), a partial or total telephone restriction is authorized. A telephone restriction in this situation is discretionary, as necessary to ensure the institution's safety, security, good order or to protect the public. When deemed necessary, ordinarily, the inmate's Unit Manager recommends this type of restriction to the Warden, who makes the decision. The PSF is applied during the designation process, initial classification, or program reviews.

(2) **Pending Investigation or Disciplinary Action for Possible Telephone Abuse.** If an inmate is pending either investigation or disciplinary action for possible telephone abuse, a partial or total telephone restriction is authorized. A telephone restriction in this situation is discretionary, as necessary to ensure the institution's safety, security, or good order, or to protect the public. When deemed necessary, ordinarily, the Special Investigative Supervisor's office recommends this type of restriction.

b. **Procedures for Imposing Telephone Restrictions.** The following procedures must be followed when imposing, or renewing, a telephone restriction under this section:

(1) The appropriate staff member recommends a telephone restriction to the Warden by completing the Request for Telephone Restriction form (BP-740.052). The recommending staff member should describe briefly the reason for recommending a telephone restriction, as well as the extent of the proposed restriction. It is not necessary that telephone restrictions under this section be total; partial restrictions are allowed.

For example, staff may recommend reducing an inmate's telephone use to 100 minutes per month rather than a total restriction, if such a restriction would sufficiently protect the safety, security, or good order of the institution, or protect the public.

(2) The Warden will review the recommendation and either approve, modify, or deny the restriction. If the Warden approves a restriction, such decision must be based on the conclusion that it is necessary to protect the institution's safety, security, or good order, or to protect the public.

(3) If the Warden approves a telephone restriction, a copy of the completed form should be provided to the inmate, the Trust Fund Section, and placed in Section 3 of the Inmate's Central File.

(4) Telephone restrictions imposed by the Warden due to a PSF for Serious Telephone Abuse must be reviewed at least every six months, ordinarily in conjunction with the program review, to determine if the restriction should continue or be modified. A decision to continue a current telephone restriction imposed under this section requires no further action, but must be documented in the program review report.

Any proposed change to a current telephone restriction must be made according to these procedures, and requires the Warden's approval. If appropriate, an inmate can earn back telephone privileges gradually, based on demonstrated responsibility documented by the inmate's Unit Team or other staff.

(5) Telephone restrictions imposed pending an investigation or current disciplinary action for possible telephone abuse are limited to a period of 30 days. If an additional 30 day period is required to complete either the investigation or disciplinary process, the Warden must re-authorize the restriction using these procedures. Specifically, the Warden's approval must be obtained on another Request for Telephone Restriction form (BP-740.052). Unless re-authorized in this manner, Trust Fund Branch staff must automatically reinstate the inmate's telephone privileges when the 30 day period expires.

Each subsequent restriction period is limited to 30 days. Staff should make every effort to complete investigations and disciplinary proceedings for possible telephone abuse within the first 30 day period of the telephone restriction.

(6) Inmates with telephone restrictions under this section are still entitled to place at least one telephone call per month, unless also under a sanction of telephone restriction the UDC or DHO imposed following formal, and completed, inmate discipline proceedings, or under investigation by the Special Investigative Supervisor (SIS). Ordinarily, these

telephone calls are to be placed through the inmate telephone system, not by staff.

(7) Inmates may challenge telephone restrictions imposed under this section through the Administrative Remedy Program.

9. **COURT SETTLEMENT AFFECTING THIS PROGRAM STATEMENT.** The settlement in *Washington v. Reno*, Nos. 93-217, 93-290 (E.D.KY.), which was approved by the Court on November 3, 1995, required the Bureau of Prisons to make some policy changes. To comply with the settlement's provisions, this Program Statement on Telephone Regulations for Inmates provides procedures that Bureau institutions are to use to implement and maintain the telephone program.

Until February 23, 2002, the Bureau is bound by the terms of the Settlement Agreement in *Washington v. Reno*, Case Nos. 93-217, 93-290, Eastern District of Kentucky. The full text of the Settlement Agreement can be found either in the Settlement Agreement Order on file with the Court or in the inmate law library.

10. **[PROCEDURES § 540.101.]** Debit/Collect calling (ITS-II) procedures contained in this PS apply to all institutions.

[a. Telephone List Preparation. An inmate telephone call shall ordinarily be made to a number identified on the inmate's official telephone list. This list ordinarily may contain up to 30 numbers. The Associate Warden may authorize the placement of additional numbers on an inmate's telephone list based on the inmate's individual situation, e.g., size of family.]

Placing additional numbers on an inmate's telephone list is within the Associate Warden's correctional discretion. While 30 numbers should meet the needs of most inmates, there may be isolated situations when additional numbers may be warranted. For example, an inmate who has a large family may wish to place additional family members on the telephone list. Additional numbers may also be warranted for an inmate who wishes to place both work and home telephone numbers for his or her spouse and children.

[(1) During the admission and orientation process, an inmate who chooses to have telephone privileges shall prepare a proposed telephone list. At the time of submission, the inmate shall acknowledge that, to the best of the inmate's knowledge, the person or persons on the list are agreeable to receiving the

the expense of unmonitored attorney telephone calls. Third-party calls are not authorized.

13. [RESPONSIBILITY FOR INMATE MISUSE OF TELEPHONES § 540.104. The inmate is responsible for any misuse of the telephone. The Warden shall refer incidents of unlawful inmate telephone use to law enforcement authorities. The Warden shall advise an inmate that violation of the institution's telephone regulations may result in institutional disciplinary action (See part 541, subpart B)].

Part 541, subpart B refers to the Program Statement on Inmate Discipline and Special Housing Units.

The Bureau, including its institutions, will not assume responsibility for any calls that violate applicable statutes. As used in this section, the term "misuse" refers to such situations as using the telephone to:

- intimidate a potential witness,
- perpetuate a fraud, or
- conduct any other criminal activity.

This also includes using another inmate's PAC, or providing a PAC to another inmate.

Telephone privileges are afforded to inmates who demonstrate an ability to exercise these privileges responsibly. Evidence that an inmate is violating the telephone use privilege may cause the individual to be placed on the restricted telephone use list for such time as the DHO or UDC deems appropriate, or the Warden deems appropriate. Specific instructions must be given during the orientation period and thereafter to help inmates understand their responsibilities for telephone use.

14. [EXPENSES OF INMATE TELEPHONE USE §540.105.

a. An inmate is responsible for the expenses of inmate telephone use. Such expenses may include a fee for replacement of an inmate's telephone access code that is used in an institution which has implemented debit billing for inmate calls. Each inmate is responsible for staying aware of his or her account balance through the automated process provided by the system. Third party billing and electronic transfer of a call to a third party are prohibited.]

The Trust Fund Branch is to establish a fee, not greater than the replacement cost, for replacing an inmate's PAC.

300 minutes per calendar month limitation does not affect an inmate's ability to place unmonitored legal telephone calls.

(2) **Hours of Telephone Operation.** The hours of the inmate telephone operation begin at 6:00 AM and will end no later than 11:30 PM. From at least 11:30 PM to 6:00 AM, inmate telephone access will not be available. Inmates' access to telephones will be limited during the following times, Monday through Friday, not including holidays:

7:30 AM until 10:30 AM

12:30 PM until after 4:00 PM count.

Inmates are expected to be at their work assignments and must not use the telephone during their work hours. For inmates who work varied work shifts, at local discretion, institutions may leave one telephone per unit available for inmates on "days off," or "evening shift" such as food service workers, UNICOR workers, etc. Staff are encouraged to take disciplinary action if an inmate leaves his or her work assignment to place telephone calls without the appropriate institution staff member's prior approval.

These restrictions should not be imposed in Pretrial institutions or Pretrial Units where inmates are not required to work and generally have more need for telephone access during the day to prepare for trial. However, as indicated in Section 7.a. of this Program Statement, phone calls by pretrial inmates should be closely monitored.

The placement and duration of any direct telephone call, including calls to a foreign country, are subject to the availability of inmate funds. A warning tone should be provided approximately one minute before the call is disconnected.

[e. Exception. The Warden may allow the placement of collect calls for good cause. Examples of good cause include, but are not limited to, inmates who are new arrivals to the institution, including new commitments and transfers; inmates confined at Metropolitan Correctional Centers, Metropolitan Detention Centers, or Federal Detention Centers; pretrial inmates; inmates in holdover status; inmates who are without funds (see § 540.105(b)); and in cases of family emergencies.]

§ 540.105(b) refers to Section 14.b. of this Program Statement.

The calls outlined in Section [e.] above, will be placed through the inmate telephone system, except as set forth in